

APR 22 2003

Not for Publication

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

**JORGE ROJAS-VELASQUEZ, aka Jorge
Rojas aka Jorge Alvarado Velasquez,**

Defendant - Appellant.

No. 02-10269

D.C. No. CR-00-05426-REC

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Robert E. Coyle, Chief Judge, Presiding

Argued and Submitted April 4, 2003
San Francisco, California

Before: **B. FLETCHER, KOZINSKI** and **TROTT**, Circuit Judges.

We lack jurisdiction to review the denial of the motion to dismiss because Rojas-Velasquez entered an unconditional guilty plea. See United States v. Floyd, 108 F.3d 202, 203-04 (9th Cir. 1997). We lack jurisdiction to review the refusal to

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

depart downward because the record does not show that the district court mistakenly believed it had no authority to depart. See United States v. Berger, 103 F.3d 67, 69-70 (9th Cir. 1996).

DISMISSED.